

RECORD OF DEFERRAL

HUNTER & CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DEFERRAL	18 November 2024
DATE OF PANEL MEETING	13 November 2024
PANEL MEMBERS	Alison McCabe (Chair), Tony McNamara, Roberta Ryan
APOLOGIES	None
DECLARATIONS OF INTEREST	Giacomo Arnott and Ryan Palmer – Due to previously voting on a Planning Proposal for a Rezoning Review on this lot.

Papers circulated electronically on 6 November 2024.

MATTER DETERMINED

PPSHCC-261 – Port Stephens – DA 16 -2023 -685 -1 at 42 Fullerton Cove Road, Fullerton Cove 2318 – Commercial premises (Neighbourhood Shopping Centre) including Signage, Sewer Extension and Demolition (as described in Schedule 1)

REASONS FOR DEFERRAL

The Panel considered the matters listed at item 6, the material listed at item 7 and the material presented at the meetings observed at the site inspection listed at item 8 in Schedule 1.

The Panel has had the benefit of a number of briefings from both the applicant and Council.

The Panel has previously raised issues with how biodiversity was being addressed on the site. The Panel acknowledges that the site has been rezoned for the purpose of providing a small-scale shopping centre to meet the needs of the community and to conserve ecologically important lands.

The Panel, in their consideration of the application and deliberation, requires further information in order to be satisfied of the merits of the proposal and to address jurisdictional considerations prior to any determination.

The Panel does not agree with how Gross Floor Area (GFA) has been calculated for the purpose of clause 7.24 of the Port Stephens Local Environmental Plan (PSLEP) 2013. The calculation needs to include circulation and access areas. This will put commercial premises GFA in excess of the provisions at clause 7.24(3). The applicant is to amend the plans to comply or prepare a clause 4.6 Exception to Development Standards for consideration.

Additional information has been provided regarding contamination, but satisfaction of clause 4.6(1)(c) is heavily qualified. There needs to be a clear statement as to what is expected to be found and what type of remediation is likely to be needed. A clear statement that it is anticipated that the site can be remediated and made suitable for the use is required.

To satisfy clauses 5.21(2)(c) and 5.21(3)(c) of the PSLEP 2013, a Flood Emergency Response Strategy is needed that clearly identifies warning timeframes and likely evacuation or shelter-in-place requirements as a minimum.

The biodiversity assessment needs further consideration of just the E1 Local Centre zoned land and identify from Figure 4 of the BDAR the nature of vegetation, the areas avoided and how impacts have been

minimised on the E1 Local Centre lands, and why this is appropriate in the context of the quality of vegetation.

Engineering, landscape and ecological outcomes need to demonstrate that they are consistent.

The Panel notes that a Vegetation Management Plan (VMP) for the C2 Environmental Conservation land is proposed to be a condition.

The following information is required for the Panel to be satisfied that the proposal is suitable for the site and that impacts can be appropriately managed and the provisions of PSLEP 2013 and the Biodiversity Conservation Act 2016 are satisfied:

- (i) Amended plans that reduce the commercial premises GFA to meet the requirements of clause 7.24(3) or submit a clause 4.6 Exception to Development Standards.
- (ii) A Flood Emergency Response Strategy to address the provisions of clause 5.21 of the PSLEP 2013.
- (iii) Additional detail in terms of the nature of contamination and anticipated remediation strategy and a statement that the site can be remediated and made suitable for the use.
- (iv) Analysis of the vegetation and ecology, specific to the E1 Local Centre zone lands and the avoidance and minimisation undertaken.
- (v) Demonstration that engineering, landscape and ecological outcomes are integrated and consistent.

Council is to prepare a supplementary assessment report that considers the above, and relevant conditions, including any required in respect to management of the C2 Environmental Conservation lands and private sewer lines.




The Panel agreed to defer the determination of the matter for the provision and assessment of the above information.

The decision to defer the matter was unanimous.

ACTIONS

The determination of the Development Application be deferred for the following:

1. The Applicant to provide the information and amended documents at points (i) to (v).
2. A formal written request to amend the application is required to be uploaded to Planning Portal by the Applicant within three (3) weeks, outlining:
 - a. Particulars sufficient to indicate the nature of the change of the development, as required under section 37 of the Environmental Planning and Assessment Regulation 2021
 - b. updated technical reports relied on in the amended application.
3. Council is requested to provide an addendum assessment report responding to the matters above, which is to be uploaded to the Planning Portal within two (2) weeks of the upload of the Applicants required information to the Planning Portal.
4. When the updated assessment report is received the Panel will determine the application by way of electronic determination.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Tony McNamara
 Roberta Ryan	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-261 – Port Stephens – DA 16 -2023 -685 -1
2	PROPOSED DEVELOPMENT	Construction of a Shop (supermarket), 5 x Commercial Premises, a Medical Centre, Signage, Sewer Extension and Demolition of existing dwelling
3	STREET ADDRESS	Lot 14 DDDP 258848 42 Fullerton Cove Road, Fullerton Cove 2318
4	APPLICANT/OWNER	Canaan PD 2 Pty Ltd Canaan PD 2 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value over \$20M (DA lodged before 1 March 2019)
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Industry and Employment) 2021 Port Stephens Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Port Stephens Development Control Plan 2013 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: s61(1) – demolition of buildings Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 4 November 2024 Clause 4.6 request - Height of Buildings Written submissions during public exhibition: 5 Total number of unique submissions received by way of objection: 5
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 16 January 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara <u>Council assessment staff</u>: Courtney Sargent, Ryan Falkenmire <u>Applicant representative</u>: Jamie Graham, Lachlan Sims, Phillip Hendrie, Charlotte Allen, Angus Brien, Kelly Drysdale, Kirwan Williams, Geoffrey Rock, Darcy Kilvert, Meeka Prince, Itto Vukeni <u>Department</u>: Leanne Harris Briefing: 29 May 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Ashley Bacales, Ryan Falkenmire ○ <u>Department</u>: Leanne Harris, Holly McCann <ul style="list-style-type: none"> ● Briefing: 7 August 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara ○ <u>Council assessment staff</u>: Courtney Sargent, Ryan Falkenmire, Dyaln Mitchell, Emily Allen ○ <u>Department</u>: Leanne Harris ● Site inspection: <ul style="list-style-type: none"> ○ Alison McCabe: 6 May 2024 ○ Roberta Ryan: 28 July 2024 ○ Tony McNamara: 5 February 2024 ● Final briefing to discuss council's recommendation: 13 November 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara ○ <u>Council assessment staff</u>: Courtney Sargent, Emily Allen ○ <u>Applicant representatives</u>: Jamie Graham, Meeka Prince, John Streeter, Phillip Hendrie, Charlotte Allen, Angus Brien, Cathy Thomas, Kelly Drysdale, Kate Hopoi ○ <u>Department</u>: Holly McCann
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report